IN THE HIGH COURT OF JUDICATURE AT BOMBAY
CIVIL APPELLATE JURISDICTION

SECOND APPEAL NO. 284 OF 2005

The State of Maharashtra & Ors... ....Appellants.
V/s
Sandeep Anant Pathare & Ors.. ... .Respondents.

Office Notes, Office Memoranda of Coram, appearances Court's orders or directions and Registrar' orders.	Court's or Judge's Orders

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Mr.Bharat Mehta, AGP for the Appellants.

CORAM: A.P. DESHPANDE, J.
10.7.2007

PC:

The State Government has filed this second appeal taking exception to the judgment and order passed by the First Appellate Court decreeing the suit filed by respondents/plaintiffs. The original plaintiffs are residents of village Akshi. The State Government had granted the suit land to Gram Panchayat for grazing the cattle way back in the year 1954 vide mutation entry No.1882. In the year 1985 the State Government allotted portion of the suit land admeasuring 3 acres and 10 gunthas to the original defendant No.2. Aggrieved

thereby the plaintiffs filed a suit for declaration to the effect that the villagers have a right to use suit land for grazing their cattle as the same has been used since the year 1954 onwards. It is the case of the present appellant-State Government that in the year 1980 the Collector realised that the order of allotment of land to Gram Panchayat for grazing cattle was not proper as the suit land was not suitable for grazing the cattle and hence he directed the Tahsildar to reverse the mutation entry and acquire the land back from Gram Panchayat. The plaintiffs sought a declaration that order passed in the year1980 by Tahsildar revoking grant of land for grazing cattle to Gram Panchayat is illegal and without jurisdiction and claimed villagers' right in regard to grazing of cattle in the suit land. The First Appellate Court has partly decreed the suit. Hence this second appeal.

2. Learned counsel for the appellant submits that the First Appellate Court has committed an illegality in holding that the order of revocation of grant is illegal and without jurisdiction. Learned

counsel points out that the action was attempted to be defended under section 257 of the Maharashtra Land Revenue Code. Section 257 deals with revisional powers of the State Government and other revenue authorities. The said revisional power can be exercised in the circumstances stipulated in section 257. In the present case the impugned order is passed by the Tahsildar whereas the order of grant of land was also passed by the Tahsildar. It is thus clear that the order of grant is not being interfered with by revisional authority but by same authority. The First Appellate Court has rightly held that the Tahsildar could not have taken recourse to section 257 of the Code to revoke the order passed in the year 1954 granting land for grazing the cattle to Gram Panchayat. Even otherwise though no limitation is prescribed revisional or review powers need to be exercised within a reasonable period. In the present case an order passed way back in the year 1954 is sought to be revoked after lapse of about 26 years. Thus the judgment and decree passed by the First Appellate Court does not suffer from any illegality. There is

no substantial question of law emerging for adjudication in the present second appeal. Hence second appeal is summarily dismissed.

10.7.07.